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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,925	08/27/2003	Walter Martin	22585-00001	1924
27144	7590	11/17/2004	EXAMINER	
FOSTER, SWIFT, COLLINS & SMITH, P.C. 313 SOUTH WASHINGTON SQUARE LANSING, MI 48933			COURSON, TANIA C	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,925

Applicant(s)

MARTIN, WALTER

Examiner

Tania C. Courson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6 and 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-6 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes (US 4,731,037) in view of Martin (US 4,913,672).

Rhodes discloses a survival device, including the following:

- a) a balloon element (Fig. 1, inflation device 10) having a substantially flat center portion (Fig. 1), an inflatable peripheral edge (Fig. 1), an inflation valve assembly (Fig. 1, inflation valve assembly 28) connected to said peripheral edge (Fig. 1), a canister containing compressed gas connected to said inflation valve assembly (Fig. 3, compressed gas cartridge 34), and wherein said gas is expelled into said peripheral edge upon activation to allow the device to open up to the shape of the signal (Fig. 3);
- b) wherein said activation is by release of a pin (Fig. 1, pin 50);
- c) wherein said activation is by a water pressure switch (Fig. 3, valve 36).

Rhodes does not disclose an inflatable center channel, an inflation assembly connected to the center channel, wherein said center portion includes a first and second member and said first

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and second member form a pocket capable of holding an object, said object includes an anchor connected to an anchor line on one end and said anchor line is connected to one of said first and second members on a second end, said pocket further includes a closure element.

Martin teaches a survival device that consists of a inflatable center channel (Fig. 1), an inflation assembly connected to the center channel (Fig. 1), wherein said center portion including a first and second member and said first and second member form a pocket capable of holding an object (Fig. 1, anchor bag 13), said object includes an anchor connected to an anchor line on one end and said anchor line is connected to one of said first and second members on a second end (Fig. 1, anchor line 14 and anchor 15) and said pocket further includes a closure element (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the survival device of Rhodes, so as to include an inflatable center channel and a center portion including a pocket including an anchor, as taught by Martin, so as to provide a provide increase in stability and to provide means for enhancing visibility of the device by maintaining the device in one location during use of the device.

Regarding to claim 4: Rhodes and Martin disclose the pocket on a portion of the device (Fig. 1, anchor bag 16). Changing the location of the pocket from the location shown by Rhodes and Martin to a location on a center portion of the device, absent any criticality, is only considered to be an obvious modification of Rhodes and Martin's device that a person having ordinary skill in the art at the time the invention was made would be able to provide using routine experimentation since the courts have held that there is no invention in shifting the position if the operation of the device would not be thereby modified. *In re Japikse*, 86 USPQ

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70 (CCPA 1950). Therefore, one skilled in the art would change the location of the pocket in order to suit the needs of the user of the device.

3. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes and Martin, as applied to claims 1, 4-6 and 8-9 as stated above, and further in view of Hull et al. (US 5,245,943).

Rhodes and Martin disclose a survival device as stated above in paragraph 2.

They do not disclose a device constructed using a color highly visible from great distances and wherein said color is international orange.

Hull et al. teach a signaling device that contains a device constructed using a color highly visible from great distances and wherein said color is international orange (column 2, lines 7-9). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the survival device Rhodes and Martin so as to include an orange color, as taught by Hull et al., in order to ensure increase in visibility of the device.

Response to Arguments

4. Applicant's arguments filed on September 2, 2004 have been considered but are moot in view of the new ground(s) of rejection.

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5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., integral adjustment to allow the anchor to be attached closer or further from the raft as conditions warranted) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239.

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The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DIEGO F.F. GUTIERREZ
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 2859

TCC
November 15, 2004